

## **PLANNING COMMISSION MINUTES**

**August 7, 2007**

**7:00 P.M.**

Present: Chairman Clark Jenkins, Vice-Chairman Tom Smith, Dave Badham, Ray Keller, Michael Allen, City Engineer Paul Rowland, Planning Director Aric Jensen and Recording Secretary Connie Feil.

Absent: City Council Representative Barbara Holt, City Attorney Russell Mahan, and Beth Holbrook.

Clark Jenkins welcomed all those present and mentioned that all Commission Members now have name plates and if anyone has any questions please raise their hands and address the Board Member by name.

Michael Allen made a motion to approve the minutes for July 17, 2007 as amended. Tom Smith Seconded the motion and voting was unanimous.

- 1. PUBLIC HEARING-**Consider preliminary and final subdivision plat for Twin Homes at the Orchard Condominiums located at 1260 North 200 West, Eric Beard, applicant.

Paul Rowland explained that Eric Beard is requesting preliminary and final subdivision plat approval for the Twin Homes at the Orchard Condominiums, an 8 unit twin home development at 1260 North 200 West. This project was approved last year and is currently under construction.

Since this project has already been approved and is under construction, the only item for review is the plat itself. The Engineering Department has reviewed the plat and made minor corrections in the form of redlines.

During the review it was noticed that a couple of the buildings were not constructed in the exact location shown on the site plan. While variations of up to six inches are not uncommon and are within the accepted range of accuracy, this particular project was more than a foot off in some places. This doesn't appear to be intentional, just an instance of sloppy foundation forming. Fortunately for the applicant, this review is really just for drawing accuracy; the foundations have already been inspected and approved by a City inspector. But it is an example of a larger problem that needs to be addressed.

Staff recommends preliminary and final plat approval for the Twin Homes at the Orchard Condominiums with the following conditions:

1. The redlines are corrected and returned prior to City Council approval.
2. The required bonds and fees are paid.

The public hearing was opened for all those with comments or concerns. The public hearing was closed without comments.

There was a discussion concerning the construction not being built in the location shown on the site plan. Paul Rowland explained that State Law states that all construction is required to be in basic conformity with the approved plat. A condominium is the only building required that the footprint of the building be built as approved on the plat. Since it was built in the basic conformity to the plat, it is OK.

Dave Badham made a motion to recommend to the City Council preliminary and final subdivision plat for Orchard Condominiums subject to conditions outlined by Staff. Tom Smith seconded the motion and voting was unanimous in favor.

**2. Consider preliminary and final site plan approval for a multi-family development located at 315 W. 200 N., Greg Call, applicant.**

Hyrum Bates, representing Greg Call, was present. Clark Jenkins is the proposed builder for this project and excused himself from this item. Tom Smith was asked to chair this item.

Aric Jensen explained that Greg Call is requesting preliminary and final site plan approval for a 3 unit multi-family residential development located within the RM-13 zone. The site is approximately 0.39 acres, which at 9 units to the acre allows for 3 units.

The site plan drawing shows two attached units that are perpendicular to the street, and a single unit located to the rear of the property that runs parallel to the street. The Land Use Ordinance requires that units turned perpendicular to the street must meet front and rear yard setbacks for both the lot and the unit, i.e., there has to be a 25' setback at the front of the lot and the front of the unit, and a 20' setback at the back of the lot and the back of the unit. Building 1, which is perpendicular to the street, appears to meet these setbacks. Building 2, which is parallel to the street, is required to have 10' side yard setbacks and a 20' rear yard setback, and it appears to meet this criteria.

Mr. Jensen explained that the units as proposed are 1.5 stories, with a master bedroom on the main level and one bedroom in the basement. The half story is an office located within the gables over the garage. There are only seven parking spaces within the entire project; the exact minimum for three (2) bedroom units. Based on the plans submitted, the office space could be used as another bedroom without any modifications which would require one or two more parking stalls.

Another issue of concern is access to the garage located in Unit 3. Staff is not convinced that a standard sized vehicle can exit and enter the easterly side of the garage and make the transition to the driveway out to the street. Staff has significant concerns with these two issues and the applicant needs to address them.

The building elevations and landscape plan show the location of an appropriate number of trees and shrubs, and exterior patios as required by ordinance. There are only some minor redline corrections that need to be made to these drawings which are hand drawn on full size sheets.

Staff recommends discussing the issues with the applicant and continuing the item to allow time for corrections and modifications.

Hyrum Bates explained that this project will be sold as condominiums. The loft will be offered to the buyer as an option and there is a possibility that the lofts will be eliminated completely from the plans.

There was a discussion regarding the possibility of an additional bedroom per unit. The current plan shows no way to close off the loft as a bedroom. The applicant needs to have the engineer draw the parking movement from the rear garage to the road, making sure it is possible.

Ray Keller made a motion to continue this item to allow the applicant to revise his site plan. Dave Badham seconded the motion and voting was unanimous in favor.

Clark Jenkins returned to the table as Chairman.

### **3. PUBLIC HEARING-Consider amendments to Title 14, Land Use Ordinance.**

Aric Jensen explained that most of the amendments to Title 14, the Bountiful City Land Use Ordinance, are simple household/clean up things that have been noticed over the past months. The policy-type changes that Mr. Jensen believes warrant a discussion are as follows:

#### Page 1-3, Section 14-1-106 F.

Over the years there have been many instances where individuals have illegally converted legal uses into illegal uses, one of the most common being single family homes to duplexes. Earlier this year the Planning Department was investigating such an incident and one of the staff made an “undercover” contact to the real estate agent listing the property, whereupon the agent told him that it was a single family home that could easily be rented as an illegal duplex. And this was after Staff had contacted the agent and warned him that this could only be used as a single family home. This may or may not be an isolated incident, however, the increasing number of complaints lends Staff to believe that it is not. Staff is proposing specific language that would allow the City to prosecute not only those who actually make the conversion, but those who propagate the circumstances.

#### Page 2-7, Section 14-2-104 D.

This clarifies the point that the Administrative Committee is essentially a subset of the Planning

Commission, and that any time the Planning Commission is reviewing a project that has an element that normally falls under the jurisdiction of the Committee, the Planning Commission can also act on that item and doesn't have to remand it to the Committee for a decision. (E.g., a site plan review that involves a lot line adjustment.)

Pages 2-28 to 2-29, Section 14-2-506

This is basically a rewrite of our conditional use review standards in which Staff tried to keep the spirit of the existing text but make it consistent with LUDMA.

Pages 4-8, 5-6, 5-7, 6-6, 16-2, 16-6, 16-7 (Xeriscape)

These pages all deal with xeriscape, which is basically a type of water conserving landscaping. Our current ordinance technically allows xeriscaping, but doesn't specifically say so, nor does it define the term or establish specific criteria. This proposal was drafted based on conversations with the Engineering, Streets, and Water Departments, and with citizens who are interested in xeriscaping.

Page 4-15, Section 14-4-118 A. and B.

These paragraphs are in conflict with the rewrite of the PUD Ordinance, (now referred to as the Planned Development Overlay Zone - PDO), that was approved in June of 2006. The PDO Zone text contains a general repealer that says that you don't need a conditional use permit once the property has been rezoned, and so this revision will bring the two sections into harmony.

Page 6-2, Table 15-6-103

Assisted living centers are currently not permitted in any commercial zones, however, there may be some areas where such a use may be appropriate. The downside is that this could open areas such as the Renaissance Town Center and others to this type of development, where this use may not be appropriate. Staff has mixed feelings on this proposal.

Page 13-1, Table 14-13-102

This is the previously discussed proposal to reduce the minimum size of a Planned Development in a single family zone to one acre.

Pages 14-5 and 14-6, Section 14-14-110

This proposal is in response to the dangerous fire conditions that we've had the last couple of years and the convoluted process of abating potential fire hazards. Staff is trying to say that in instances of extreme conditions, the City can abate potential hazards without having to go

through the standard four to six week notification process.

Mr. Jensen explained that is an ongoing problem of structures not being built in the exact location shown on the plans. This is typically the result of sloppy or hurried staking on the part of the contractor, however, staff has on record several instances where a developer has intentionally moved a building after the approval. One of the solutions to this problem is to require that every new building have the corners surveyed and certified by a licensed surveyor prior to pouring cement. This is an added cost of several hundred dollars, but would drastically reduce problems such as the Peter Gordon home up by the golf course, and others. Mr. Jensen referred to some proposed language written on the white board.

Mr. Jensen explained that the amendments to Title 14 are quit lengthy and suggested opening the public hearing for comments during the discussion.

Clark Jenkins opened the public hearing and asked for public comments during the discussion for each item.

Mr. Jensen explained that he has reviewed the proposed changes to the ordinance and explained that with most items the wording has changed but the concept remains the same. Each item was discussed between Staff and the Commission. The public gave the following remarks:

Richard Baker, residing at 487 E. 200 N., would like to know what the process will be to enforce the ordinance. Mr. Jensen explained that, in most cases, the office will receive a complaint from a resident that a home is being used illegally. Sometimes a sign or advertisement will be seen by an employee and be reported to staff, at which time it will be investigated. A letter will be sent to the property owner informing them of the violation. If no response, a seconded letter will be sent giving a two week period to respond. If no response, the case is turned over to the City Prosecutor.

Lorna Hartvigson, residing at 429 E. 250 N., had concerns that after being prosecuted the use of the homes still continues. Mrs. Hartvigson owned a home at 222 E. Center St. which was sold as a single family home and is now being used as a duplex. Mrs. Hartvigson feels that she did not get the full value by selling her home as single family dwelling. She would like this property owner prosecuted for having an illegal apartment.

Steve Johnson, residing at 563 E. 200 N., had questions regarding how much time the property owner would have to conform to the ordinance. Mr. Jensen explained that it would depend on the situation. If the home is being rented or sold illegally without occupancy, they would have 4 to 6 weeks. If the home has a renter with a lease it could be until the lease expires.

Ruth Johnson, residing at 563 E. 200 N., would like to know if the name of the person giving the complaint is public knowledge. Mr. Jensen explained that only if the resident wishes his/her name to be given.

Robert Rawlins, residing at 341 E. 200 S., would like to know what happens to those property owners that have been in violation for years. Will they be required to comply with the new ordinance? Mr. Jensen explained that the ordinance will be aggressively pursued.

Sherry Dean, residing at 445 E. Center, had concerns with a home in her neighborhood that has been converted into a duplex illegally. Mr. Jensen explained that some homes in this area are legal duplexes and are now legal non-conforming duplexes. Those duplexes that have not been approved by the City before the zone change will be affected by this ordinance amendment.

Brian Urie, residing at 240 E. 100 S., had questions regarding requirements for individual electrical meters for each unit, required parking, and complying with building codes for duplexes. Mr. Jensen explained that each duplex would have to comply with all ordinances and codes at the time the structure became a duplex. All illegal duplexes will be pursued.

Tom Sheffield, residing at 497 E. 200 N., had questions regarding a single family home with a mother-in-law apartment. There are homes in the area that are renting the mother-in-law apartment to family members. Aric Jensen explained that the Federal Fair Housing Act allows for a home to be rented to three individuals as one household. Renting a mother-in-law apartment to a family member is a gray area that would have to be looked into.

Ed Myer asked to clarify the renting your home to a family. Mr. Jensen explained that a property owner can rent the home to one single family or up to three unrelated individuals. All members must share common space such as the kitchen, bathrooms, etc. to qualify.

Doug Larsen, had concerns about the Realtors using an excuse of “I didn’t know” to get away with the sale. Mr. Jensen explained that a letter announcing the changes will be sent to the Board of Realtors.

There was a discussion between the Commission and Staff regarding getting the information to the public, Realtors and Brokers on the changes.

Michael Allen excused himself from the meeting at 7:55 p.m.

Steve Akerlow and his associates were present to review the section regarding PDO’s. They have an interest in property located on 500 South and have presented a proposed project to the Planning Commission at a previous meeting. There was a lengthy discussion regarding this project and the concerns of the Commission regarding style, color, location of these units. Mr. Akerlow stated that the project would fit in with the neighborhood and meet all requirements.

Mr. Jensen continued to review the remaining amendments with a brief discussion on each item.

The public hearing was closed without further comments.

Mr. Jensen will make the changes and correction as necessary and bring them back to the Commission for further revisions or approval.

Meeting adjourned at 9:00 P.M.